

# Notice of Allowability

Application No.

10/606,042

Examiner

Sean E. Conley

Applicant(s)

PENMAN ET AL.

Art Unit

1744

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 10/5/2006.
2. ☒ The allowed claim(s) is/are 9-15, 17, 18 and 22-24.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Amendment***

1. The amendment filed October 5, 2006 has been received and considered for examination. Claims 9-15, 17-18, and 22-24 are pending.

### ***Allowable Subject Matter***

2. Claims 9-15, 17-18 and 22-24 are allowed.

The following is an examiner's statement of reasons for allowance: The prior art, alone or in combination, fails to teach or fairly suggest an aromatic container heater assembly comprising a heat conducting candle container housing an aromatic candle wherein a flexible and configurable conductor assembly is wrapped about and in contact with the exterior surface at a side wall of the candle container. The closest prior art to the applicant's claimed invention is Tanner et al. (U.S. Patent No. 6,627,857 B1), Barnhart (U.S. Patent 6,413,476), and Pikor (U.S. Patent No. 3,839,006)

Tanner et al. and Barnhart both disclose devices for heating containers holding a scent candle in order to release an aroma. However, both of the devices disclose heaters that are situated at the bottom of the candle container. Neither of the devices of Barnhart or Tanner et al. teach or suggest an aromatic container heater assembly comprising a heat conducting candle container housing an aromatic candle wherein a flexible and configurable conductor assembly is wrapped about and in contact with the exterior surface at a side wall of the candle container.

Pikor discloses a heater comprising a flexible conductor assembly (Nichrome wire (10)) having a first end and a second end (see ends of wire (10)) the Nichrome wire (10) being bendable and configurable, wherein a first electrical conductor is electrically connected to the first end of the conductor assembly and a second electrical conductor is electrically connected to the second end of the conductor assembly (see AC line cord (12) which houses the two wires attached to the ends of wire (10)). An electrical plug (connector (17)) is electrically connected to the first and second electrical conductors (AC line cord (12)) in order to supply electricity to the flexible and configurable conducting wire (10) (see figures 1-4; col. 2, line 38 to col. 4, line 5). However, Pikor does not teach or suggest using the heater to heat a heat-conducting candle container containing an aromatic candle to release an aroma.

Therefore, claims 9-15, 17-18, and 22-24 are allowable since the prior art, alone or in combination, fails to teach or fairly suggest all of the limitations claimed by the applicant.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sean E. Conley whose telephone number is 571-272-8414. The examiner can normally be reached on M-F 8:30-5:00.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on 571-272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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October 6, 2006

  
PRIMARY EXAMINER  
AU 1744